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BRANNER *v.* BRANNER'S ADM'R.

Nov. 19, 1908.

[62 S. E. 952.]

1. Account (§ 17*)—Amendment of Bill.—A general bill for an account may, on a stated or settled account being set up in bar, and being shown, be amended, on leave, to surcharge and falsify the stated or settled account.

[Ed. Note.—For other cases, see Account, Dec. Dig. § 17.*]

2. Account (§ 15*)—Laches.—A suit to surcharge or falsify a stated or settled account is not barred by laches, being brought within three years after the settlement; the amount and character of the error being clearly established, and there being no loss of evidence likely to produce injustice.

[Ed. Note.—For other cases, see Account, Cent. Dig. § 72; Dec. Dig. § 15.*]

3. Appeal and Error (§ 273*)—Absence of Exceptions.—In the absence of exceptions to the report of the commissioner on the ground of his failure to make certain allowances, defendant cannot complain thereof on appeal by complainant from the dismissal of the bill on exceptions to such report.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 1620; Dec. Dig. § 273.*]

CRANE'S NEST COAL & COKE CO. *v.* VIRGINIA IRON,
COAL & COKE CO. et al.

Nov. 19, 1908.

[62 S. E. 954.]

1. Mines and Minerals (§ 55*)—Notice—Evidence—Sufficiency.—Evidence held insufficient to show that defendant and its predecessors acquired title to coal under land with notice of plaintiff's rights thereto.

[Ed. Note.—For other cases, see Mines and Minerals, Dec. Dig. § 55.*]

2. Vendor and Purchaser (§ 242*)—Purchasers for Value—Notice—Burden of Proof.—The burden to prove notice to a purchaser for value is on the party alleging it, and, while notice may be inferred from circumstances as well as proved by direct evidence, the proof must be such as to affect his conscience, and so clear as to show mala fides.

[Ed. Note.—For other cases, see Vendor and Purchaser, Dec. Dig. § 242.*]

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.